

C.C. Dale, Brad, Cheryl W.
Judi



THE SECRETARY OF EDUCATION
WASHINGTON, DC 20202

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JUL 24 REC'D 2012

July 19, 2012

COMMISSIONER'S OFFICE
KSDE

Honorable Diane DeBacker
Commissioner of Education
Kansas State Department of Education
120 SE 10th Avenue
Topeka, KS 66612

892

Dear Commissioner DeBacker:

I am pleased to approve Kansas' request for ESEA flexibility, subject to Kansas' meeting the condition described below. I congratulate you on submitting a request that demonstrates Kansas' commitment to improving academic achievement and the quality of instruction for all of the State's elementary and secondary school students.


Last fall, the U.S. Department of Education (Department) offered States the opportunity to request flexibility from certain requirements of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the No Child Left Behind Act of 2001, in exchange for rigorous and comprehensive plans designed to improve educational outcomes for all students, close achievement gaps, increase equity, and improve the quality of instruction. This flexibility is intended to support the groundbreaking reforms already taking place in many States and districts that we believe hold promise for improving outcomes for students. We are encouraged by the innovative thinking and strong commitment to improving achievement for all students that is evident in Kansas' request.

Our decision to approve Kansas' request for ESEA flexibility, subject to Kansas' meeting the condition discussed below, is based on our determination that the request meets the four principles articulated in the Department's September 23, 2011, document titled *ESEA Flexibility*. In particular, Kansas has: (1) demonstrated that it has college- and career-ready expectations for all students; (2) developed, and has a high-quality plan to implement, a system of differentiated recognition, accountability, and support for all Title I districts and schools in the State; (3) committed to developing, adopting, piloting, and implementing teacher and principal evaluation and support systems that support student achievement; and (4) provided an assurance that it will evaluate and, based on that evaluation, revise its administrative requirements to reduce duplication and unnecessary burden on districts and schools. Our decision is also based on Kansas' assurance that it will meet these four principles by implementing the high-quality plans and other elements as described in its request and in accordance with the required timelines. In approving Kansas' request, we have taken into consideration the feedback we received from the panel of peer experts and Department staff who reviewed Kansas' request, as well as Kansas' revisions to its request in response to that feedback.

The waivers that comprise ESEA flexibility are being granted to Kansas pursuant to my authority in section 9401 of the ESEA. A complete list of the statutory provisions being waived is set forth in the table enclosed with this letter. Consistent with section 9401(d)(1) of the ESEA, I am granting waivers of these provisions through the end of the 2012-2013 school year. If Kansas meets the condition described below prior to the end of the 2012-2013 school year, Kansas may request an extension of these waivers through the end of the 2013-2014 school year. At that time, Kansas, like other States with approved requests, may request an additional extension of these waivers through the 2014-2015 school year.

In the coming days, you will receive a letter from Deborah Delisle, Assistant Secretary for Elementary and Secondary Education, containing additional information regarding Kansas' implementation of ESEA flexibility, as well as information regarding monitoring and reporting. Please note that the Department will closely monitor Kansas' implementation of the plans, systems, and interventions detailed in its request in order to ensure that all students continue to receive the assistance and supports needed to improve their academic achievement.

Our decision to place a condition on the approval of Kansas' request is based on the fact that Kansas' plan to develop and adopt guidelines for teacher and principal evaluation and support systems does not include a commitment to adopt a method for including student growth as a significant factor as part of those guidelines by the end of the 2011-2012 school year. Rather, Kansas has committed to submitting guidelines that include all other necessary elements by the end of the 2011-2012 school year, and indeed has already submitted those guidelines for review, and to submitting final guidelines that include the State's method for including student growth as a significant factor by the end of the 2012-2013 school year. However, we have determined that Kansas is able to fully meet the ESEA flexibility principles in the 2012-2013 school year while Kansas pilots the use of student growth as a significant factor in its teacher and principal evaluation and support systems, which will inform the final guidelines to be submitted at the end of that year and will enable districts in Kansas to pilot evaluation and support systems consistent with those guidelines no later than the 2013-2014 school year. *May lose waiver due to not completing*

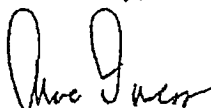
To receive approval to implement ESEA flexibility through the end of the 2013-2014 school year, Kansas must submit to the Department for review and approval an amended request incorporating its final guidelines for teacher and principal evaluation and support systems consistent with all requirements for these systems under principle 3 of ESEA flexibility. If Kansas' amended request fails to demonstrate that its final method for determining a teacher's or principal's summative evaluation rating includes student growth as a significant factor, the wavers being granted to Kansas through ESEA flexibility will expire at the end of the 2012-2013 school year, and Kansas and its districts will be required to immediately resume complying with all ESEA requirements. 

Kansas continues to have an affirmative responsibility to ensure that it and its districts are in compliance with Federal civil rights laws that prohibit discrimination based on race, color, national origin, sex, disability, and age in their implementation of ESEA flexibility as well as their implementation of all other Federal education programs. These laws include Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act, the Age

Discrimination Act of 1975, and requirements under the Individuals with Disabilities Education Act.

A copy of Kansas' approved request for ESEA flexibility will be posted on the Department's Web site at: <http://www.ed.gov/esea/flexibility/requests>. Again, I congratulate you on the approval of Kansas' request for ESEA flexibility and thank you for the work that you and your staff have done. I look forward to continuing to support you as you implement Kansas' ESEA flexibility request and work to improve the quality of instruction and academic achievement for all students.

Sincerely,



Arne Duncan

Enclosure

cc: Governor Sam Brownback
Judi Miller, Assistant Director of Federal Programs

Provisions Waived Through Approval of Kansas' Request for ESEA Flexibility		
ESEA SECTION ¹	DESCRIPTION	NOTES
STATE-LEVEL RESERVATION FOR SCHOOL IMPROVEMENT		
1003(a)	Requires State educational agency (SEA) to reserve 4 percent of its Title I, Part A allocation for school improvement activities and to distribute at least 95 percent to local educational agencies (LEAs) for use in Title I schools in improvement, corrective action, and restructuring	The reservation is not waived; SEA may distribute section 1003(a) funds to LEAs for use in priority and focus schools
SCHOOL IMPROVEMENT GRANTS		
1003(g)	Requires SEA to award School Improvement Grant (SIG) funds to LEAs with Title I schools in improvement, corrective action, or restructuring	Waiver permits SEA to award SIG funds to an LEA to implement one of the four SIG models in any priority school
2013-2014 TIMELINE		
1111(b)(2)(E)-(H)	Establishes requirements for setting annual measurable objectives (AMOs)	Waiver permits SEA to set new ambitious but achievable AMOs
ADEQUATE YEARLY PROGRESS (AYP) DETERMINATIONS		
1116(a)(1)(A)-(B) and 1116(c)(1)(A)	Requires SEA and its LEAs to make AYP determinations for LEAs and schools, respectively	
WITHIN-DISTRICT ALLOCATIONS		
1113(a)(3)-(4) and (c)(1)	Requires LEA to rank and serve eligible schools according to poverty and allocate Title I funds to schools in rank order of poverty	Waiver permits LEA to serve with Title I funds a Title I-eligible high school with a graduation rate below 60 percent that the SEA identified as a priority school even if that school does not rank sufficiently high to be served based solely on the school's poverty rate
SCHOOLWIDE POVERTY THRESHOLD		
1114(a)(1)	Requires 40 percent poverty threshold to be eligible to operate a schoolwide program	Waiver permits LEA to operate a <u>schoolwide program in a priority school or a focus school with less than 40 percent poverty</u> that is implementing a schoolwide intervention

¹ The corresponding regulations that implement these statutory provisions are also waived. Any ESEA statutory provision not listed in this table is not waived.

**Provisions Waived Through Approval of Kansas'
Request for ESEA Flexibility**

SCHOOL IMPROVEMENT REQUIREMENTS		
1116(b) (except (b)(13))	Requires LEA to identify schools for improvement, corrective action, and restructuring with corresponding requirements	1116(b)(13), which requires LEA to permit a child who has transferred to remain in the choice school through the highest grade in the school, is not waived
LEA IMPROVEMENT REQUIREMENTS		
1116(c)(3) and (5)-(11)	Requires SEA to identify LEAs for improvement and corrective action with corresponding requirements	
1116(e)	Requires SEA and LEAs to take a <u>variety of actions to offer supplemental educational services to eligible students in schools in improvement, corrective action, restructuring</u>	
RESERVATION FOR STATE ACADEMIC ACHIEVEMENT AWARDS PROGRAM		
1117(b)(1)(B)	Limits the schools that can receive Title I, Part A funds reserved for State awards program	Waiver allows funds reserved for State awards program to go to any reward school
HIGHLY QUALIFIED TEACHER PLAN ACCOUNTABILITY AGREEMENT REQUIREMENT		
2141(c)	Requires SEA/LEA agreement on use of Title II, Part A funds for LEAs that <u>miss AYP for three years and fail to make progress toward reaching annual objectives for highly qualified teachers</u>	<u>Waiver includes existing agreements and applies to restrictions on hiring paraprofessionals under Title I, Part A</u>
LIMITATIONS ON TRANSFERABILITY OF FUNDS		
6123(a)	Limits to 50 percent the amount an <u>SEA may transfer from a covered program into another covered program or into Title I, Part A</u>	Waiver applies to the percentage limitation, thereby permitting SEA to <u>transfer up to 100 percent from a covered program</u>
6123(b)(1)	Limits to 50 percent or 30 percent the amount an LEA may transfer from a covered program into another covered program or into Title I, Part A	Waiver applies to the percentage limitations as well as to the restrictions on the use of transferred funds
6123(d)	Requires modification of plans and notice of transfer	
6123(e)(1)	Transferred funds are subject to the requirements of the program to which they are transferred	Waiver permits an LEA to exclude funds transferred into Title I, Part A from the base in calculating any set-aside percentages

**Provisions Waived Through Approval of Kansas'
Request for ESEA Flexibility**

RURAL SCHOOLS		
6213(b)	Requires LEAs that fail to make AYP to use funds to carry out the requirements under ESEA section 1116	
6224(e)	Requires SEA to permit LEAs that fail to make AYP to continue to receive a Small, Rural School Achievement grant only if LEA uses funds to carry out ESEA section 1116	
21ST CENTURY COMMUNITY LEARNING CENTERS (CCLC)		
4201(b)(1)(A), 4204(b)(2)(A)	Require a community learning center to provide activities during non-school hours or periods when school is not in session	Waiver permits an eligible entity to provide 21 st CCLC activities to support expanded learning time during an expanded school day, week, or year in addition to activities during non-school hours or periods when school is not in session

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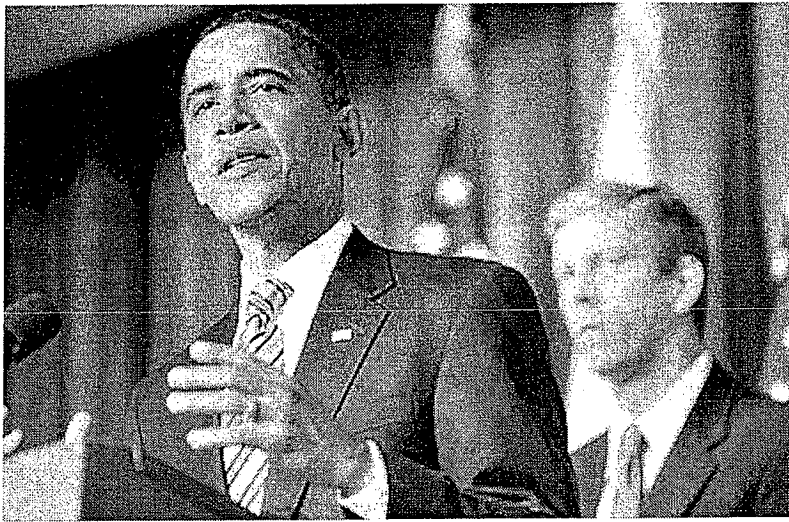
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More States Receive Strings-Attached NCLB Waivers

The Foundary – Education – by [Rachel Sheffield](#) -- May 30, 2012



Yesterday, the Obama Administration announced that eight more states will receive waivers to opt out of the onerous provisions of No Child Left Behind (NCLB).

As *Education Week's* Alyson Klein reported on Tuesday, “The U.S. Department of Education today granted waivers to eight of the 26 states (plus the District of Columbia) that applied in February for wiggle room under the No Child Left Behind Act. The second-round waiver states are: Connecticut, Delaware, Louisiana, Maryland, New York, North Carolina, Ohio, and Rhode Island.”

However, the message of “relief” and “flexibility” the Administration is pushing is a far cry from what the waivers actually represent. Sure, states may receive temporary relief from one flawed federal policy, but they are doing so at the cost of agreeing to even greater federal encroachment. To receive a waiver, a state must sign on to a set of conditions set forth by the Administration.

“One of the most concerning conditions attached to the waivers is the requirement for states to adopt common standards and tests,” wrote Heritage's Lindsey Burke earlier this year. “Having national organizations and the Department of Education dictating standards and tests will effectively centralize control of the content taught in local schools. It's an unprecedented and dangerous federal overreach.”

Interestingly, as Klein points out, most of the eight states receiving waivers have already signed on to the Administration's education reforms as part of the Race to the Top grant competition:

Except for Connecticut and Louisiana, all of the waiver recipients were among the dozen states that won a slice of the \$4 billion Race to the Top fund. That shouldn't surprise anyone. To get a waiver, states must embrace certain Obama administration reform priorities. And many of those requirements... are similar to the policies embraced by the administration's Race to the Top competitive grant program.

Undoubtedly, states need relief from NCLB, but waivers fraught with heavy-handed demands from Washington are far from the best interest of states. The Administration's approach of advancing its own agenda by circumventing Congress shows blatant disregard for the proper lawmaking process. While the Obama Administration has been attempting to impose its own education agenda on states, other reforms that provide true flexibility are currently being considered in Congress, such as the A-PLUS proposal, which would allow states to completely opt out of No Child Left Behind.

Instead of kowtowing to the White House's demands, states should reject strings-attached waivers and insist on real flexibility.

To learn more about the dangers of national standards, watch our video: "Washington's Latest Education Overreach: National Standards for Schools"

Q6 & Q7

What Happens if Kansas Opts Out of the CCS:

- 1) There will be minimal—if any—cost or disruption if the CCS are not implemented in Kansas schools. Federal funds will not be cut. The reauthorization of ESEA will nullify many of the demands in the NCLB waiver.
- 2) The reading and math standards which Kansas teachers have used for years are excellent. Students have learned English and how to do math problems. What is low is the Kansas cut scores and definition of proficiency used by the KSDOE to show yearly progress.
- 3) Since the standards for both of these subjects are up for their 7 year review, there will be the normal cost of bringing classroom teachers and content experts from across the state in to see what revisions should be recommended to the State Board.
- 4) This seven year review cycle is done—by statute—for each core subject required for graduation. The most recent review has been the Kansas History and Government standards. Kansas science standards are next.
- 5) Kansas University has received large Federal grants to develop new state test items. The Kansas reading and math test item pool of validated questions is already quite large. So, reading and math performance can still be measured using the existing Kansas state assessments with no delays or additional cost to local districts.
- 6) School districts can continue using the reading and math textbooks they currently have without buying new ones which are supposedly “100% Aligned to the Common Core”.
- 7) School districts can stop holding expensive teacher in-service trying to explain the differences between the CCS and what they already know how to teach using the Kansas standards.
- 8) School districts will not have to purchase new computers, costly software upgrades and pay for expensive increased Internet bandwidth just to be able to take the computerized national assessments. Instead, new technology purchases can be focused on career and tech. ed. applications such as CAD and web design.
- 9) Since the Kansas NCLB waiver from the USDOE was only “conditional” for the 2012-13 school year, it may be that the waiver will not be extended anyway since the Kansas teacher evaluation component is still not validated or reliable. This has nothing to do with adopting the CCS or not. The USDOE is trying to force the use of student scores on just the reading and math assessments to evaluate every teacher in a school. Kansas educators are rightfully saying no to this unrealistic bureaucratic demand. So, the Kansas NCLB waiver may not be extended again—whether or not the CCS are used in our schools.
- 10) The ACT test given to high school Juniors and some Seniors will not be changed. It is based on 55 years of longitudinal data on college readiness which has nothing to do with whether students have been taught using the new CCS. So, there is no penalty for Kansas students who learned to read and do math without the CCS.
- 11) One of the major reasons to keep the Kansas reading and math standards is that local school boards will retain control over what their children are taught. If the CCS are implemented, neither local school boards nor the elected State Board of Education will have any ability to change the national CCS standards.
- 12) By withdrawing from the CCS, Kansas taxpayers will regain control over how the investment in the education of our students is spent. Unless the CCS are stopped now, it will be impossible to make any changes in what and how our students are taught. Already, national science standards are being developed. The next are national history and government standards. The Federal government only contributes 7.5% of the funding to educate Kansas children but wants to dictate most of the rules, data collected, regulations and course content.



As one of the original developers of the Common Core State Standards, ACT played a critical and unique role in providing data, information and research in the development of the Common Core. Based on our 50+ year history of assessing college and career readiness ACT was pleased to partner with the Council of Chief State School Officers (CCSSO), the National Governors Association (NGA), and the other development partners (College Board and Achieve) in the effort.

ACT research and data were at the heart of the Common Core development process – the CCSSI even adopted ACT’s definition of College Readiness, “students will graduate from high school ready to enter into entry-level, credit bearing classes without remediation, and pass those classes with a C or better”. The resulting standards provide a clearer picture of the level of readiness students must have as they leave high school as well as the progression of knowledge they require in earlier grades to be on track to meet those standards.

ACT is launching ACT Aspire to extend our mission of helping people achieve education and workplace success. The initiative is a natural progression for ACT based on our established college and workforce readiness programs. It is also the outcome of requests for an aligned, coherent K-12 assessment system from our clients.

While ACT is developing Aspire to better support readiness at earlier grade levels, our intent would be to align Aspire to the ACT test. ACT intends to maintain the integrity of the ACT score scale and our validated College Readiness Benchmark Scores. Any changes to the ACT test itself will be consistent with principles of test development, user feedback, market demands, and, of course evidence and research. These changes will be made gradually and thoughtfully using the highest quality test development and a research-based sustainability model that provides evidence of validity and insures that the test blueprints are continuously reviewed with a robust research and support agenda and validated college readiness benchmark scores (ACT’s periodic National Curriculum Survey has long-been a critical component of this process).

ACT’s development agenda includes providing the best college and career readiness measures based on the available research and evidence, being able to report results in meaningful ways (including Common Core State Standards reporting categories) and going beyond the Common Core to measure other critical areas of readiness by providing insights on science skills and offering career readiness measures that give information to students about their college and career readiness.



ACT, Inc.
500 ACT Drive
Iowa City, IA 52243
319.337.1000

From: Scott Montgomery [<mailto:Scott.Montgomery@act.org>]

Sent: Friday, March 08, 2013 8:08 PM

To: educationalmanagers@cox.net

Subject: ACT Aspire Information

It was a pleasure talking with you this afternoon. Below is some quickly cobbled language that I think makes the distinction between our new Aspire system (3-10) and the ACT (which we see as the capstone to the 3-10 system). The language both describes Aspire as an early monitoring assessment tool for college readiness as well as discusses the fact that the ACT will maintain it's current scale score and continue to be aligned to ACT's College Readiness Benchmarks; in other words, the ACT is not changing.

I'm happy to discuss in more detail if you'd like but wanted to try and get you something as quickly as possible. If you have questions I can be reached over the weekend at this email or by cell 319.400.6468 (I will be traveling with my son for a club soccer tournament so may not be readily available but will get back to you as quickly as possible).

I do hope the information below is helpful.

Best,
Scott

ACT is launching ACT Aspire to extend our mission of helping people achieve education and workplace success. The initiative is a natural progression for ACT based on our established college and workforce readiness programs. ACT Aspire represents a logical evolution of our more than 50-year mission of helping people achieve education and workplace success. It is also the outcome of requests for an aligned, coherent K-12 assessment system from our clients.

Assessing students' knowledge and skills relative to readiness beyond high school is critical to ensuring all students receive the services necessary to help them succeed in school and in life. By providing essential, actionable information on the achievement of millions of students, ACT is providing the tools needed for educators, parents, and students to help unlock student potential using continuous personal insights.

ACT Aspire will be a comprehensive digitally-based elementary (3rd grade) through early high school (10th grade) assessment system that will increase the accessibility and affordability of timely, accurate and insightful information to help educators, parents, and students to better prepare students for the academic and professional demands of our 21st century economy. ACT Aspire's Readiness Benchmarks are empirically linked to the ACT College Readiness Benchmark Scores. They will enable educators and parents to identify early on in a child's development if a student is on track for college and career readiness.

ACT intends to maintain the integrity of the ACT score scale and our validated College Readiness Benchmark Scores. The ACT is the capstone of the ACT Aspire system. Any future changes to the ACT will be consistent with principles of test development, user feedback, market demands, and, first and foremost evidence and research. What will not change is our

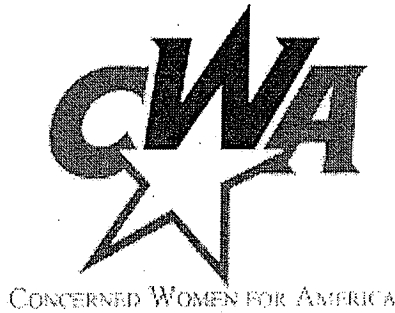
commitment to the highest quality test development, a research-based sustainability model that provides evidence of validity and insures that the test blueprints are continuously reviewed, a robust research and support agenda, and validated college readiness benchmark scores.

Scott Montgomery
Assistant Vice President

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Iowa City, Iowa 52243-0168
319.337.1465



3



Privacy Concerns

FACT SHEET
Common Core
To the Kansas House Education Committee
March 9, 2013

"The philosophy of the classroom today will be the philosophy of government tomorrow." Abraham Lincoln

As an ordinary citizen committed to the U.S. and Kansas Constitutions, a patriot from patriots who served in wars to preserve those rights guaranteed to us all, a mother, and a grandmother of eight, three of whom are being educated in the Blue Valley Schools, I am concerned about the Common Core Standards being imposed by the federal government via the 'carrot' of federal Stimulus dollars (provided by the American taxpayer). In researching these standards through my own organization, Concerned Women for America and through other sources, I have amassed a stack of papers 10 inches high that I have read and compiled.

A testimony by Brad Neuenswander, the Deputy Commissioner of the KSDE at a recent informational hearing before the Kansas House Education Committee reminded the committee that according to K.S.A 72-6439 that the state board "shall establish curriculum standards which reflect high academic standards for Kansas Education in the core academic areas of mathematics, science, reading, writing and social studies. The curriculum standards shall be reviewed at least every seven years. The Kansas State Board of Education is one of the few elected boards in the United States. It has always been comforting to know that the people of Kansas can directly contact their local and elected officials concerning education.

However, it is disconcerting to find that the KSSBOE has signed on to the standards for math and English sight unseen. Currently the Kansas State Board of Education is taking public comment on the social studies standards that will guide the teaching of history, government, geography, economics and various other courses. The SBOE adopted the math and English standards in 2010 in compliance with Common Core standards. Questions about Common Core standards and how they were presented and implemented have arisen and have given some legislators the impetus to think about reversing the process via HB 2289.

In a recent (February 24, 2013) article in the **Topeka Capitol Journal** by Celia Llopis-Jepsen the current State Board of Education chairwoman Jana Shaver (R-Independence) was questioned about Common Core and some of the concerns that are being raised by critics.

The first question was about how states (currently 45) adopted Common Core curriculum. She stated that Kansas was due to review the mathematics and English language arts curriculum anyway, so the same process was used to adjust the standards that would have been normally used. However, this time the standards were juxtaposed with Common Core Standards that have been developed by quasi-educational/government unaccountable groups and adapted Kansas standards to them.

The process of creation of the Common Core standards:

The national Common Core standards were not created by the states; they were created by *private* organizations in Washington D.C. with lavish funding from private entities such as the Gates Foundation and companies like GE and by the

federal government. The attempt to make all high school graduates "college-and-career ready" was accomplished by two trade associations: The National Governor's Association which does not represent every state governor; and the Council of Chief State School Officers (CCSSO). These two organizations completed their standards-development process by utilizing another private contractor---Achieve, Inc., a corporation founded by the National Governor's Association. This corporation met in private with work groups almost entirely staffed by persons who were not, with one exception, K-12 educators. Of the more than 65 people involved in the common core design and review, only one was a classroom teacher and no school administrator is listed as being a member of the groups.

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In a study by The University of Colorado at Boulder in July, 2010 by William J. Mathis, Ph.D. in affiliation with Arizona State University regarding the development of the standards (500 pages) ["The 'Common Core Standards Initiative: An Effective Reform Tool?"; William J. Mathis, Ph.D., University of Colorado at Boulder, July, 2010] the conclusion was the standards were developed with a minimal input from school-based practitioners, field testing was not done, and the tests that will be used to evaluate the standards have not even been developed completely. Dr. Mathis even postulated that when they are developed they probably would not have sufficient validity to justify 'the high stakes consequences that will likely arise around their use.' He recommends that the standards should be subjected to extensive validation, trials and subsequent revisions before implementation. During the time of evaluation states should be encouraged to examine and experiment with broad-based school evaluation systems. He does not recommend that states implement accountability systems where the assessments are inadequate for such purposes.

The standards were released on June 2, 2010 and may be found at <http://www.corestandards.org/thestandards> with evidence supporting the standards at <http://www.corestandards.org>. The second round deadline of "Race to the Top" federal grant money that required adoption of the standards was August 2, 2010. Most state legislatures are not in session in the summer. The Kansas State Board adopted the standards on October 12, 2010 after only a month's consideration so Ms. Shaver's comment about Kansas adopting the Core standards before they were released seems to be misleading. In fact she stated an executive committee of ELA teachers from across the state was formed to review and provide feedback upon the drafts of the Common Core Standards in January 2010, but much of the time was spent in crafting the "Kansas 15%" (the 15% that the federal government allows for deviation/adaptation of the standards) that each state is *allowed* to develop.

Because the National Governor's Association and the CCSSO led the initiative it is generally assumed that the standards were state-led, implying that legislative authority had been given. However, the real "carrot" in the adoption of the standards was federal money offered through the American Recovery and Reinvestment Act enacted on February 17, 2009 (Stimulus Bill) that created a \$4.35 billion earmark for states "that have made significant progress" in meeting state standards and enhancing the quality of academic assessments. The week following the signing of this bill U.S. Secretary of Education Arne Duncan announced that the Department of Education would be distributing the money through a competitive grant program called "*Race to the Top*" When asked if he envisioned "national standards for every kid across all subjects and national tests," he stated: "We want to get into this game....There are great outside partners---Achieve, the Gates Foundation, others---who are providing great leadership---I want to be the one to help it come to fruition." [Newsmakers, C-SPAN, February 22, 2009] In fact he also stated that he envisioned keeping databases on students from "cradle to career."

Interestingly, it appears that rather than taking the input from teachers, etc. the main players in the radical revision of education are foundations and private corporations. In the midst of the *Race to the Top* competition the Department of Education changed the Stimulus Bill objectives from general improvement of state standards and assessments to acquiescence to specific federal dictates. [Grover J. Whitehurst, "Did Congress Authorize Race to the Top?" *Education Week*, April 27, 2010] Because of these dictates which included adoption of internationally benchmarked standards and assessments; building data systems that measure student success; retraining of teachers; and turning around low-achievement schools, applicant states were required to address these issues to be considered for funding.

The idea of a federal role in education isn't new; in fact it all started with the signing by President Lyndon Johnson of the Elementary and Secondary School Act of 1965 (ESEA). Because of the insertion of federal funds, the Department of

Education was established in 1979. For years the Department of Education has had to operate within federal guidelines established by federal statute. The General Education Provisions Act (GEPA), the Department of Education Organization Act (DEOA) and subsequent reauthorizations of ESEA amended by the No Child Left Behind Act of 2001 ban federal departments and agencies from directing, supervising, or controlling elementary and secondary school curriculum, programs of instruction, and instructional materials. Since 2009, through the *Race to the Top Fund*, the *Race to the Top Assessment Program* and conditional NCLB waiver plans the Department of Education has created a system of discretionary grants and waivers that persuade state education authorities into accepting elementary and secondary school standards favored by the Department of Education, i.e. Common Core Standards.

Limitations placed on the Department of Education by federal statute:

- Prohibition on directing, supervising, controlling curriculum under GEPA---this also applies to textbooks, library resources or other printed or instructional material
- DEOA also prohibits the federal government from directing curriculum and instructional materials making it clear that the Department of Education doesn't displace the role of state and local governments as dictated by the Constitution of the United States.
- ESEA (1965) contained similar language but adds a limitation on the ability of federal officers and employees to mandate, direct or control curriculum.

Clearly the intent of Congress was to keep the federal government out of educational curriculum and leave the direction of education to the states and to local control. However the Common Core Standards are not coming from the states or the federal government (albeit with full approval of the federal government) but from two trade organizations and the groups they established to carry out the task of overhauling and the centralization of education. They claim that their standards are internationally benchmarked but to date have not produced those "benchmarks"; in fact they now refer to them as "internationally-informed" benchmarks. By enticing states to accept these benchmarks sight unseen with federal dollars they have achieved a goal of changing our nation's education goals without empirical testing and against federal law.

Standards drive curriculum, programs of instruction and selection of educational materials. **Standards are the skeleton; curriculum fleshes out the skeleton producing a completely different model that adheres to the framework.** Indeed, the newly adopted standards have also produced a need for new testing standards, thus giving birth to two consortia receiving federal grants totaling \$330 million---the Partnership for Assessment of Readiness for College and Careers Consortium (PARCC) and the SMARTER Balanced Assessment Consortium (SBAC). These common assessments along with a common curriculum displace local assessment autonomy; in fact one has to wonder if there is any need for a State Board of Education or legislative oversight in our children's education. Both groups received additional funding to "help member states transition to the Common Core Standards and assessments"---this includes curriculum materials. The standards are **copy-righted** so are not subject to change by local entities. One has to wonder who will be selling the textbooks, instructional materials and doing the training of teachers. The other question to ask ourselves is "If the Common Core Standards are not working well for our children, who will be held accountable?"

Privacy Concerns:

Data collection, a necessary tool for assessing educational success, of students K-12 is regulated at the federal level by two statutes:

- Family Educational Rights and Privacy Act (FERPA), enacted in 1974---provides minimal privacy protection for educational records
 - Applies to educational agencies and institutions that receive federal funds administered by the Secretary of Education.
 - Educational records may consist of the students name, address, telephone, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of athletes, dates of attendance, degrees and awards received and the most recent educational agency or institution attended by the student.

- Any other information that could include personally identifiable requires parental written consent.
- **Exceptions:** If a third party is deemed under the authorization of the institution and is performing a legitimate *educational interest*, these records could be shared without consent. [Emphasis Added] They may also be shared if there is evidence of a crime.
- No Child Left Behind Act (2002) established reporting requirements that initiated a need to increase data collection at the state level.
 - NCLB requires states seeking government funding for education to create, maintain, and submit specified categories of anonymous data to the U.S. Department of Education.
 - Nonprofit policy groups and the U.S. Department of Education believe that 'efficiency' can best be accomplished by the development of data systems that are interchangeable. The U.S. Department of Education is an active participant in this standardization in producing and developing statewide longitudinal databases resulting in the raising of privacy concerns.
 - Kansas is one of the states with longitudinal databases.
 - Kansas currently appears to be one of the three states that actually appear to be adhering to guidelines on rendering data non-personally identifiable. [<http://www.nces.ed.gov/Programs/SLDS/pdf/Kansas.pdf>] They also have some type of detailed access restrictions outlined in their materials. They do require a Confidentiality Requirement Acknowledgement for those entities requesting personally identifiable information.
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 - The Department of Education released the regulations on December 2, 2011. As of January 3, 2012, interstate and intergovernmental agencies' access to your child's personal information will be practically unlimited according to a *New York Post* article by Emmett McGroarty and Jane Robbins on December 27, 2011.

Costs:

In California an estimate in 2010 was \$800 million for new curriculum frameworks and instructional materials. In addition training teachers in the two subjects, Math and English would be as much as \$765 million. An additional \$20 million would be needed for instructional and training materials. The total estimated cost for California for retooling is about \$1.6 billion over a few years.

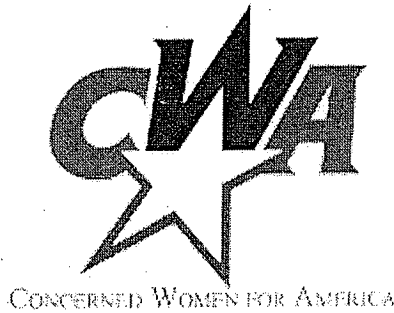
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Part of the objections to HB 2289 is that it will cost Kansas to go back to state standards. What you have to also consider is what it will cost the state in sovereignty, parental and local control, and invasion of privacy. It could also cost you; the relevance of the state legislature and the Kansas State Board of Education in directing the education of our most precious asset---our children--- is also at risk.

Judy Smith,
State Director of Concerned Women for America of Kansas

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3



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Judy Smith,
State Director of Concerned Women for America of Kansas

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Statewide Longitudinal Data Systems

FY 2009 funding: \$65 million

American Recovery and Reinvestment Act: \$250 million

Grantees: States

Type of Grant: Competitive

For more information visit www.ed.gov

Purpose:

The program provides grants to states to design, develop, and implement statewide P-20 longitudinal data systems to capture, analyze, and use student data from preschool to high school, college, and the workforce.

Program Requirements:

Since it started in fiscal year 2005, the program has awarded grants worth \$265 million to 41 states and the District of Columbia. The Recovery Act competition requires that the data systems have the capacity to link preschool, K-12, and postsecondary education as well as workforce data. To receive State Fiscal Stabilization Funds, a state must provide an assurance that it will establish a longitudinal data system that includes the 12 elements described in the America COMPETES Act, and any data system developed with Statewide longitudinal data system funds must include at least these 12 elements. The elements are:

1. An unique identifier for every student that does not permit a student to be individually identified (except as permitted by federal and state law);
2. The school-enrollment history, demographic characteristics, and program participation record of every student;
3. Information on when a student enrolls, transfers, drops out, or graduates from a school;
4. Students scores on tests required by the Elementary and Secondary Education Act;
5. Information on students who are not tested, by grade and subject.
6. Students scores on tests measuring whether they're ready for college;
7. A way to identify teachers and to match teachers to their students;
8. Information from students' transcripts, specifically courses taken and grades earned;
9. Data on students' success in college, including whether they enrolled in remedial courses;
10. Data on whether K-12 students are prepared to succeed in college;

11. A system of auditing data for quality, validity, and reliability; and
12. The ability to share data from preschool through postsecondary education data systems.

With such comprehensive data systems, states will be able to monitor their reforms and make specific changes to advance them. These data systems will capture data on students from one grade to the next, measuring whether they are on track to graduate and telling K-12 schools whether they are preparing their students to succeed in college and the workforce. The data systems also can help identify teachers who are succeeding so states can reward them, and find teachers who are struggling and help them improve.

A request for applications is being published in the Federal Register and will be available on www.ed.gov.